

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	File No. EB-08-IH-1364
)	
ALLEGIANCE COMMUNICATIONS, LLC)	NAL/Acct. No. 201132080025
)	
)	FRN 0010267862
)	
)	

ORDER

Adopted: April 14, 2011

Released: April 14, 2011

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Allegiance Communications, LLC (“Allegiance” or the “Company”). The Consent Decree terminates an investigation by the Bureau against Allegiance for possible violations of sections 1.1157, 52.17, 52.32, 54.706, 54.711, 64.604, and 64.1195 of the Commission’s rules,¹ concerning the payment of annual regulatory fees; contributions to the Universal Service Fund (“USF”) and Telecommunications Relay Services (“TRS”) Fund; contributions to cost-recovery mechanisms for North American Numbering Plan (“NANP”) and Local Number Portability (“LNP”) administration; and the submission of information as set forth on the Telecommunications Reporting Worksheets (*i.e.*, FCC Forms 499-A and 499-Q).

2. The Bureau and Allegiance have negotiated the terms of a Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated herein by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Allegiance possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended (the “Act”),² and sections 0.111 and 0.311 of the Commission’s rules,³ the Consent Decree attached to this Order **IS ADOPTED**.

¹ 47 C.F.R. §§ 1.1157, 52.17, 52.32, 54.706, 54.711, 64.604, and 64.1195.

² 47 U.S.C. § 154(i).

³ 47 C.F.R. §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by certified mail, return receipt requested, to Mr. William Haggarty, Chief Executive Officer, Allegiance Communications, LLC, 1819 Airport Drive, Shawnee, Oklahoma, 74804.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

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CONSENT DECREE

1. The Enforcement Bureau (“Bureau”) and Allegiance Communications, LLC (“Allegiance” or the “Company”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether the Company violated sections 1.1157, 52.17, 52.32, 54.706, 54.711, 64.604, and 64.1195 of the Commission’s rules,¹ concerning the payment of annual regulatory fees; contributions to the Universal Service Fund (“USF”) and Telecommunications Relay Services (“TRS”) Fund; contributions to cost-recovery mechanisms for North American Numbering Plan (“NANP”) and Local Number Portability (“LNP”) administration; and the submission of information as set forth on the Telecommunications Reporting Worksheets (*i.e.*, FCC Forms 499-A and 499-Q).

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (c) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (d) “Effective Date” means the date on which the Commission releases the Adopting Order.
 - (e) “Federal Regulatory Reporting and Contribution Compliance Plan” means the program described in this Consent Decree at paragraph 14.

¹ 47 C.F.R. §§ 1.1157, 52.17, 52.32, 54.706, 54.711, 64.604, and 64.1195.

- (f) “Investigation” means the investigation commenced by the Bureau’s July 30, 2008 letter of inquiry² regarding whether Allegiance violated sections 1.1157, 52.17, 52.32, 54.706, 54.711, 64.604, and 64.1195 of the Commission’s rules,³ concerning the payment of annual regulatory fees; contributions to the federal USF and TRS Fund; contributions to cost-recovery mechanisms for NANP and LNP administration; and the submission of information as set forth on the Telecommunications Reporting Worksheets (*i.e.*, FCC Forms 499-A and 499-Q).
- (g) “Allegiance Communications, LLC” or “Allegiance” means Allegiance Communications, LLC, and its predecessors-in-interest and successors-in-interest.
- (h) “Order” or “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (i) “Parties” means Allegiance Communications, LLC, and the Bureau, and each is a “Party.”
- (j) “Rules” means the Commission’s regulations found in Title 47 of the Federal Regulations.
- (k) “Interconnected VoIP service” has the meaning set forth at 47 C.F.R. § 9.3.

II. BACKGROUND

3. Pursuant to section 254(d) of the Act and sections 54.706 and 54.711 of the Rules, certain providers of interstate telecommunications, including companies providing interconnected VoIP service,⁴ are required to file annual and quarterly Telecommunications Reporting Worksheets (FCC Form 499-A and FCC Form 499-Q) and contribute to the federal USF.⁵

4. Pursuant to section 251(e) of the Act and sections 52.17 and 52.32 of the Rules, certain companies, including those providing interconnected VoIP service,⁶ are required to contribute to the costs of establishing numbering administration and local number portability.⁷

² See *Allegiance Communications, LLC*, EB-08-IH-1364, Letter from Trent B. Harkrader, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission to William Haggarty, Chief Executive Officer, Allegiance Communications, LLC (July 30, 2008) (“LOI”).

³ 47 C.F.R. §§ 1.1157, 52.17, 52.32, 54.706, 54.711, 64.604, and 64.1195.

⁴ 47 C.F.R. § 9.3.

⁵ 47 U.S.C. § 254(d); 47 C.F.R. §§ 54.706, 54.711. See also 47 C.F.R. § 54.713 (governing contributors' failure to report or to contribute).

⁶ 47 C.F.R. § 52.17(c) and 52.32(e) (including interconnected VoIP providers as defined in section 52.21(h) of the Commission’s rules in the terms “telecommunications carrier” or “carrier” for purposes of numbering administration and number portability).

⁷ 47 U.S.C. § 251(e); 47 C.F.R. §§ 52.17, 52.32.

5. Pursuant to section 225(b)(1) of the Act and the Commission's 2007 order extending disability access requirements to providers of interconnected Voice over Internet Protocol (VoIP) services, interconnected VoIP service providers are required to contribute to the TRS Fund.⁸

6. Pursuant to sections 1.1154 and 1.1157 of the Rules, interstate telephone service providers, including those providing interconnected VoIP service, are required to pay regulatory fees.⁹

7. Pursuant to the Commission's 2006 *Universal Service Contribution Methodology* order, interconnected VoIP providers are required to register with the Commission and designate an agent for service of process pursuant to section 4(i) of the Act.¹⁰

8. Allegiance offers interstate interconnected VoIP telecommunications services and is subject to the requirements discussed in paragraphs 3 through 7 above.

9. On July 30, 2008, the Bureau issued a letter of inquiry to Allegiance.¹¹ The LOI directed Allegiance, among other things, to submit a sworn written response to a series of questions relating to whether Allegiance violated the Rules concerning the payment of annual regulatory fees; contributions to the USF and TRS Fund; contributions to cost-recovery mechanisms for NANP and LNP administration; the reporting of information as set forth on the Telecommunications Reporting Worksheets; and the submission of registration information with the Commission. Allegiance responded to the LOI on September 4, 2008.¹² As of March 25, 2011, Allegiance has paid all invoiced amounts to the USF, TRS Fund, cost recovery mechanisms for NANP and LNP administration, and regulatory fees, and has made the required filings with respect to the regulatory reporting obligations discussed above.

III. TERMS OF AGREEMENT

10. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

11. **Jurisdiction.** Allegiance agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

⁸ 47 U.S.C. § 225(b)(1); *Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, Report and Order, 22 FCC Rcd 11275, 11291-97, ¶¶ 32- 43 (2007).

⁹ 47 U.S.C. § 9(a)(1); 47 C.F.R. §§ 1.1154, 1.1157 (setting forth regulatory fees and method of payment applicable to "Interstate Telephone Service Providers" according to their interstate and international end-user revenues as reported on FCC Form 499-A). See also *Assessment and Collection of Regulatory Fees for Fiscal Year 2007*, 22 FCC Rcd 15712, 15717-18 (2007) (extending regulatory fee obligations to VoIP service providers).

¹⁰ *Universal Service Contribution Methodology*, 21 FCC Rcd 7518, 7548 ¶¶ 60-61 (2006), *aff'd in part, vacated in part*, *Vonage Holdings Corp. v. FCC*, 489 F.3d 1232, 1244 (D.C. Cir. 2007); 47 U.S.C. 154(i) (*2006 Contribution Methodology Order*).

¹¹ See LOI, n.2, *supra*.

¹² See Letter from Jane Bremer and Stephen Ross, Bremer Law, P.C., to Mindy Littell, Attorney Advisor, Investigations & Hearings Division, Enforcement Bureau, FCC, dated September 2, 2008 ("LOI Response").

12. **Effective Date: Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

13. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Allegiance agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Allegiance concerning the matters that were the subjects of the Investigation. The Bureau also agrees that it will not use the facts developed in the Investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Allegiance with respect to Allegiance's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier.

14. **Federal Regulatory Reporting and Contribution Compliance Plan.** For purposes of settling the matter set forth herein, Allegiance agrees, within 30 days of the Effective Date, to create and maintain a Compliance Plan related to future compliance with the Act and the Rules and orders concerning federal regulatory reporting and contribution obligations. The Plan will include, at a minimum, the following components:

- (a) **Compliance Manual.** Allegiance shall create, maintain and update a manual to ensure future compliance with Allegiance's obligations concerning the payment of annual regulatory fees; contributions to the USF and TRS Fund; contributions to cost-recovery mechanisms for NANP and LNP administration; and the submission of information as set forth on the Telecommunications Reporting Worksheets (the "federal regulatory reporting and contribution obligations"). Allegiance personnel who have responsibility for fulfilling Allegiance's federal regulatory reporting and contribution obligations shall follow the procedures contained in the Compliance Manual. The Compliance Manual shall, among other things, describe the Rules and requirements as they apply to Allegiance regarding Allegiance's federal regulatory reporting and contribution obligations. The Compliance Manual shall set forth a schedule of filing and payment dates associated with annual regulatory fees; contributions to the USF and TRS Fund; contributions to cost-recovery mechanisms for NANP and LNP administration; and the submission of information as set forth on the Telecommunications Reporting Worksheets. Allegiance shall create compliance notifications that alert Allegiance personnel to upcoming filing and payment dates. The Compliance Manual shall require personnel to contact Allegiance's Compliance Officer, and if appropriate regulatory legal counsel, with any questions or concerns that arise with respect to Allegiance's federal regulatory reporting and contribution obligations.
- (b) **Compliance Training Program.** Within 60 days of the Effective Date, Allegiance will implement and conduct a training program for employees who are responsible for fulfilling its federal regulatory reporting and contribution obligations, as described in paragraph 14(a). Allegiance shall ensure that training and compliance materials regarding the federal regulatory reporting and contribution obligations are provided to all of its employees who are responsible for fulfilling those obligations. New employees, or reassigned employees who

take on such responsibilities, will be provided such training within 30 days of hiring or reassignment.

- (c) Compliance Officer. Allegiance shall designate a Compliance Officer within thirty (30) days of the Effective Date. The Compliance Officer shall be responsible for administering the Compliance Plan and shall be the individual whose business unit is most directly responsible for fulfilling Allegiance's federal regulatory reporting and contribution obligations.
- (d) Review and Monitoring. Allegiance shall review the Compliance Manual and Compliance Training Program to ensure that they are maintained in the proper manner and continue to address future compliance with Allegiance's federal regulatory reporting and contribution obligations. Allegiance shall update the Compliance Manual and Compliance Training Program as necessary and appropriate, and in the event of changes and/or additions to the relevant Rules and orders shall update the Compliance Manual and Compliance Training Program within thirty (30) days after the effective date of any such change or addition.
- (e) Compliance Reports. Allegiance shall file Compliance Reports with the Commission ninety (90) days after the Effective Date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date. Allegiance also shall disclose any failure to comply with the terms and conditions of this Consent Decree, or with the federal regulatory reporting and contribution obligations described in subparagraph (a) above, within fifteen (15) business days after discovery of such failure to comply.
 - (i) Each Compliance Report shall include assertions by Allegiance that it:
 - 1. has established operating procedures intended to ensure compliance with the terms and conditions of this Consent Decree and with the relevant sections of the Rules, together with an accompanying statement explaining the basis for the assertion;
 - 2. has been utilizing these procedures for the entire term of the Compliance Plan;
 - 3. has disclosed any known instances of non-compliance with this Compliance Plan discovered during the reporting period;
 - 4. has taken steps to identify any failures to timely fulfill its federal regulatory reporting and contribution obligations; and
 - 5. has addressed any instances of non-compliance and taken steps to remedy the cause thereof.
 - (ii) Each Compliance Report must be supported by the declaration of an officer as an agent of and on behalf of Allegiance with personal knowledge of the representations provided in the report, verifying the truth and accuracy of the information. The declaration must comply with section 1.16 and be subscribed to as true under penalty of perjury in substantially the same form set forth therein.
 - (iii) Any instance of non-compliance with the Compliance Plan disclosed in the report shall provide:
 - 1. a detailed explanation of the non-compliance;
 - 2. the steps Allegiance has taken to remedy the non-compliance and ensure future compliance; and
 - 3. the schedule on which the proposed remedial actions will be taken.

- (f) **Filing.** All Compliance Reports and other disclosures required by this Consent Decree shall be submitted to Theresa Z. Cavanaugh, Acting Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554. Allegiance must also transmit a copy of the reports via email to Terry.Cavanaugh@fcc.gov.

15. **Termination Date.** Unless stated otherwise, the requirements of the Federal Regulatory Reporting and Contribution Compliance Plan will expire 24 months after the Effective Date.

16. **Section 208 Complaints: Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to section 208 of the Act against Allegiance or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Allegiance of the Act, the Rules, or the Order.

17. **Voluntary Contribution.** Allegiance agrees that it will make a voluntary contribution to the United States Treasury in the amount of \$20,000, in two payments of \$10,000 each. The first payment shall be made within 10 days after the Effective Date of the Adopting Order, and the second payment shall be made within 12 months after the Effective Date of the Adopting Order. The payments must be made by check or similar instrument, payable to the Order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to the Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. Allegiance will also send electronic notification on the date said payments are made to Mindy.Littell@fcc.gov.

18. **Waivers.** Allegiance waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Commission issues an Order adopting the Consent Decree without change, addition, modification, or deletion. Allegiance shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Allegiance nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Allegiance shall waive any statutory right to a trial *de novo*. Allegiance hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act,¹³ relating to the matters addressed in this Consent Decree.

19. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Allegiance does not expressly consent) that provision will be superseded by such Rule or order.

20. **Successors and Assigns.** Allegiance agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

¹³ 5 U.S.C. § 504; 47 C.F.R. Part 1, Subpart K.

21. **Invalidity.** In the event that this Consent Decree is rendered invalid by a court of competent jurisdiction, it shall become null and void, and may not be used in any manner in any legal proceeding.

22. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Rules and orders.

23. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both parties.

24. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

25. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

26. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

By: _____
P. Michele Ellison
Chief, Enforcement Bureau
Federal Communications Commission

By: _____
William Haggarty
Chief Executive Officer,
Allegiance Communications, LLC

Date: _____

Date: _____